

Diversification of Employment Relations and Representation of Workers' Interests

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Abstract

1. Background and Research Questions

The competitive order that took shape in Korea in the 1980s has weakened the labor union and increased labor flexibility. On top of that, the rapid technological development and oversupply of labor have accelerated the fragmentation of employment relations. Changes in employment relations are affecting not only the labor market but also how workers' interests are represented. The conventional employment model centered on regular workers is breaking down, giving way to more diversified and differentiated employment relations, and giving rise to new types of workers whose rights cannot be represented by unions.

Given that the growing crisis in worker representation is a major challenge that can also affect the duality and inequality in the labor market, this study will focus on this question and conduct an in-depth analysis on the changes in labor movement strategy. This study emphasizes that the way workers are organized must also change in line with the diversifying employment relations, to be able to better represent workers' interests. For example, fixed-term workers who, unlike regular workers, are contracted for a pre-determined period, would be less motivated to join a union. For agency workers or contract workers, they might lose more than they gain from union participation because there is no guarantee that they can bargain with the principal employer. Special employment workers only have limited rights to engage in union activities according to the Trade Union Act, which means that the employer can avoid engaging in collective bargaining even if they were to organize themselves in a union. And for platform workers, there is not even sufficient discussion on their status as an employee. Due to these reasons, more creative solutions must be ideated that take into consideration the different circumstances specific to the diversifying employment types.

It is in this context that the study addresses the following questions. First, as employment relations diversify, to what extent are workers' interests being represented? Despite the importance of representation, organizing workers has many challenges. To answer this question, Chapters 2 and 3 of the study review the current level of organization and potential demand.

Second question is, as employment relations diversify, how are the ways to represent workers' interests diversifying? It also has to do with flexibility in union strategy and strategic orientation. In particular, as atypical work continues to grow, such as indirect employment, special employment and platform work, organizing in conventional approach has become far more difficult. In traditional employment relations, representing workers' interests was possible only by organization at each workplace. But the new forms of work, such as single-person contracting, special employment and platform work make collective representation much more daunting. This question is addressed through case studies in Chapters 5 to 7, on organization of indirect employment, special employment and platform work respectively.

Third is a question on the process (mechanism) of representing workers' interests. If the mechanism is evolving to represent new types of workers, it will try to identify the process of that evolution. It is in this context that the psychological process of special employment and platform workers (Chapter 4) and the mediating role of the Irregular Workers Center and Workplace Harassment 119 are reviewed.

2. Findings

A. Quantitative Analysis

Quantitative analysis is explained from Chapters 2 to 4. Chapter 2 reviews the status of special employment based on literature review combined with analysis of the Economically Active Population Survey and Survey on Working Conditions by Employment Type. Chapter 3 analyzes the union supply-demand and the gap in representation using the Korea Labor and Income Panel Study (KLIPS). Time-series (2009-2018) analysis revealed a number of yet unknown facts. First, there was a higher demand for unions than today but organization rate had steadily fallen to this day. Aggregate demand for unions in 2009 was 31.6%, meaning that there could have been 31.6% organization rate in Korea had supply met the demand. Since then, aggregate union demand kept falling, to 23.2% in 2018. As of 2018, if union supply met the demand, organization rate would have been 23.2%. According to the Ministry of Employment and Labor's survey on union organization in 2018, organization was 11.8%, showing the possibility of 11.4%p more organization.

Second, aggregate union demand, or potential organization rate, fell because of decrease in workers who wish to become members, a trend that can be explained by two factors. One is the considerable drop in union participation in organized workplaces than in non-organized workplaces. In non-unionized workplaces, there was a drop in non-members' preference for union membership, from 8.6% in 2009 to 5.7% in 2018, or by 2.9%p. But in unionized workplaces, it

fell by 9%p, from 24.4% in 2009 to 15.4% in 2018. Another reason is the bigger drop in irregular workers' intent to join unions compared to regular workers. For non-union regular workers, the wish to unionize dropped from 20.8% in 2009 to 14.3% in 2018, by 6.5%p. But among irregular workers, it plummeted by 10.1%p, from 22.7% in 2009 to 12.6% in 2018.

Third, as for the reason why non-members do not wish to join, “Do not feel the need for a union” was the most frequent response for regular workers, jumping from 49.7% in 2009 to 65.4% in 2019. But among irregular workers, “Lack of eligibility” rose from 73.6% in 2009 to 77.5% in 2018. In other words, regular workers are not organizing because of the perceived lack of necessity, while irregular workers cannot organize because of lack of eligibility. The finding highlights the need to bridge the representation gap by broadening labor rights, especially by easing irregular workers' unionization restrictions and diversifying the channels for workers to voice themselves.

Chapter 4 analyzed the leading indicators in the psychological dimension to assess special employment workers' or platform workers' intent to unionize. One of the factors that affect the intent to unionize, “identity as an employee” was hypothesized as an independent variable. It took note of the fact that special employment or platform workers are contractually defined as self-employed even though they might see themselves as employees. The analysis revealed that special employment and platform workers' sense of identity as an employee was 3.82 on average (out of a scale of 5), higher than the average (3.0). This is a reflection of their subordinate relations with the contracting party, the company. Psychologically, their sense of identity as an employee was significantly high.

Second, analysis of the relations between the employee identity and intent to unionize resulted in a positive correlation, which was statistically significant ($\beta=.36$, $p<.01$, $R^2=.16$). That is, the stronger their sense of identity as an employee, the higher their desire to join a union.

Last, to analyze how special employment and platform workers' psychological mechanism would function regarding union membership, it was hypothesized that a psychological contract violation will mediate between employee identity and unionization preference. With a strong sense of employee identity, they would expect employees' rights to be granted by the organization, and if the expectation is unmet, they would experience a serious sense of betrayal. This would cause a psychological breach of contract, which could lead to actions such as seeking collective representation through a union. Regression analysis and structural equation model supported the hypothesis on the mediation effect of a psychological breach of contract.

B. Case Studies

Case studies are presented from Chapters 5 to 9. The cases dealt with in this study are largely of two types. One type has to do with unions' strategic shift on worker organization as employment relations increasingly diversify (Chapters 5, 6, 7). Another type is on the role of the online and offline supporting organizations that mediate and catalyze worker representation (Chapter 8, 9).

1) Evolving Representation in Indirect Employment, Special Employment and Platform Employment

Chapter 5 looked the cases of social welfare workers' organization, who are mostly in indirect employment as government outsourcing takes up the bulk of the sector. Social welfare is where the traditional notion of “service” remains dominant, resulting in strong resistance against unionization. This is why there are parallel organizations, Social Welfare Association and National Social Welfare Union, who represent their interests. With growing need to represent their rights, the National Social Welfare Union that started from the Social Welfare Chapter of the Incheon Region of the Korea Confederation of Trade Unions was later expanded to the National Social Welfare Union. This is because an industry-level union was a more appropriate form given that in most cases the government is the business owner in social welfare. The Union's role is not only to promote rights of social welfare workers, but to bring “welfare to the people,” which is its slogan. But there are still two organizations, Association and Union, with different objectives and roles, which makes it important that they understand where to collaborate, where to work independently, for the goal of representing workers' interests.

Chapter 6 shows two cases. One is the process of launching the Screenwriters Chapter under the Media Union after around 20 years of struggle. Another is the case of organizing the Broadcasting Staff Chapter under the Hope and Solidarity Union. The latter is a sectoral union that was organized through Broadcasting Harassment 119. It initially focused on improving the adverse working conditions of TV drama production staff, and recently achieved the goal of creating an industry-level council consisting of the broadcaster representatives, studio association, media union and broadcasting staff chapter. And it is at this council level that it also successfully introduced the “requirement to sign standard work contract with TV drama production staff,” one of the prerequisites to improve their working conditions.

The implications of this case on the discourse on special employment professionals' representation in general are largely three-fold. First is the importance of the social narrative when organizing special employment workers. Because they work in informal relations, they are in absolute want of power resources that can draw out the employer group to the dialogue table through their collective action. Given their dearth of structural or associative power resources,

alternative power resources such as symbolic, discursive and social resources would be more important.

The second implication is the importance of the mediator's role. The case of Broadcasting Harassment 119 well illustrates the potential of an online organization platform. It is clear that the online platform is serving as the window of expression for special employment workers, who work in individualized and fragmented processes. The success story of the Blind (anonymous community app for the workplace) shows that online airing of workers' grievances is a global phenomenon. Broadcasting Harassment 119 went a step beyond that. It served as the mediator for organizing the workers. Outwardly, it acted as the platform that connects workers with support organizations, media and the public, and internally, it was served as a platform where heterogeneous occupational groups came together to form a collective sense of identity.

The third implications is the complex dynamics between rights representation and the collective sense of identity of professional groups. A professional's or an artist's sense of identity clearly can be a strong motivator for getting organized. But it also has the inherent limitation that it can lead to an exclusive organization that represents only those with certain qualifications.

Chapter 7 deals with cases of platform workers' representation. To assess how workers' rights are represented as platform work continues to expand, cases in designated-driver service, food delivery and quick service were analyzed from the three dimensions: solidarity, collective bargaining and collective action. First, in terms of solidarity, it was found that Korea's platform workers are trying to represent themselves mostly through unionization. In some cases, cooperatives were established, which would have their own businesses as well as joint businesses with the union. Regardless of their legal status (whether they are legally unions or not), they are leading collective bargaining with employers and social bargaining with the government. But it should be noted that administrative organizations tend to be inconsistent in their judgement of "status as an employee" and the central government tends to be more conservative about the status as an employee as defined in labor laws. As is the case under California's AB-5 Act, they should be regarded as employees unless they fulfill all the requirements as an independent contractor, and should be guaranteed the three labor rights.

Second, platform unions are using multi-tiered bargaining tactics, bargaining with individual delivery companies, local employer associations and local/central governments. Bargaining agenda was largely similar with that in existing labor relations, but given the specificities of the platform which is based on the network, it was bound to have multi-tier counterparties for each agenda. Platform work is characterized by temporal and spatial "dispersion" and "insecurity" caused by frequent turnovers, and these features were found to actually to boost their bargaining

power as platform businesses felt compelled to make the effort to retain them.

Third, in terms of collective action, it was confirmed that the refusal to log in to the platform could be construed as the right to collective action, not only the traditional mode of collective and simultaneous refusal by workers to provide labor. Through case studies on platform workers' representation, this study was able to discover new cases that could not be accommodated by the conventional analysis framework based on factory work. It is necessary to more actively seek mechanisms to represent platform workers that account for the new traits: temporal and spatial dispersion, network, individuality and mobility.

2) Mediating Online/Offline Organization

As one case of mediating online organization, this study reviewed the activities of Workplace Harassment 119. It is a case that offers many implications, demonstrating that a workers' platform can serve an important role in representing their rights when their representation structure in the labor market is weak. First, it highlighted the importance of democratization of the workplace. The grievances reported to Workplace Harassment 119 were overwhelmingly on wage payments. There were none too few cases of harassment and non-job related chores. All of them are challenges to be overcome in Korea's workplaces.

Second, it affirmed that a workers' platform can go beyond simply offering counseling that it can also help organize workers. The case of Hallym University Hospital is where the workplace was full of everyday harassment. Through an open chat room, workers poured their grievances on unfair harassment, which were then picked up by parliamentarians and the media, leading to a social outrage and quick follow-up administrative actions by the Ministry of Employment and Labor. And the vigorous online activities quickly led to unionization. It was made possible by the brisk online meetings and communication and prediction in employees' intent to unionize, patterns that were quite different from offline organization. It demonstrated the scalability of a workers' platform into a mechanism for organization.

A case study on offline mediation of organization was that of the Irregular Workers Center in the city of Ansan, which is a workers' center created in public-private partnership. Individual workers in micro enterprises can hardly complain or demand improvement at the workplace even when their rights are violated. Short-term agency workers lack even the motivation to voice themselves. The public-private workers' center was first started in municipalities like Seoul, Gwangju, Ansan and Daejeon, with the goal of training disadvantaged workers (those in micro enterprises or irregular jobs) about their rights and providing them with protection. It was then rolled out nationwide from the mid-2010s. Despite the achievements that enabled the quantitative

growth, projects to guarantee disadvantaged workers' right to associate were not fully implemented due to limitations in relationship-building, because the centers were privately outsourced. Through the case of the Ansan Center, this Chapter reviews the role of the public-private center as the local mediator that works toward community unionism.

Some special features of the Ansan Irregular Workers Center are that it tried to gather together the grass root actors who could be drivers of workers' group activities like travel, cinema outings and weekend farming. It also organized mutual-help groups ("Good Neighbor") to help relationship-building in their everyday lives. Good Neighbor enabled these groups to sustain consistency and continuity. Workers who establish relationships with the local movement then develop a sense of agency through the workers' college organized by the Center, then grow into field activists who resolve issues at their workplace on their own, through the Labor-Management Council or other channels. Over time, they begin to realize the need to organize, and take it upon themselves to lead the way. Once organized, the union members of the workplace then join the Good Neighbor Cooperative and pay into the Social Solidarity Fund. The Center and Good Neighbor also serve as the mediator that spread the virtuous cycle to other workplaces in the region. As organization expands in the region, it also broadens the scope of the community movement.

One of the factors that helped create the virtuous cycle of living space organization leading to workplace organization was that the activists at the Center and Good Neighbor were able to have long-term planning. Since the ideation in 2009, it took a full 10 years to finally organize. It shows the importance of combining three elements: organization experience, resources and strategy. The private-public center can be the mediator that can tie them together, as was demonstrated by the case of Ansan. Theoretically speaking, this case of offline support can be defined as the case of a support organization as the mediator, where a local community in the living space affects the collective representative body at the workplace. As the case of Hope and Solidarity Union showed how union movement can be extended to local community activities, the case of Ansan/Good Neighbor demonstrates that it can work the other way around as well.

3. Policy Recommendations

Chapter 10 reviewed overseas cases of workers' representation and identified mainly three approaches. One such approach is the existing union organizing new workers (mostly platform workers), as seen in the cases of the German metal union and the North American Teamsters. Another is the case of organizations that are non-unions but also represent workers' interests, by focusing more on campaigns rather than unionization. This Chapter reviewed the case of Unite

for Respect, which is now demanding regular scheduling of work hours, and to switch part-timers to full-time. The third and last approach is using the workers' platform. Here, the case of Coworkers.org is especially noteworthy, for its linkage to offline activities. Not only does it provide online peer-to-peer advice, it is organizing in various ways, from petitioning to institutionalization by creating a social narrative on workers' hardships. But no examples of active unionization were found in overseas case studies, one that is similar to case of the Korean Workplace Harassment 119.

The Conclusion section (Chapter 11) summarizes the study findings and presents policy alternatives to better represent workers. First is to guarantee the rights of special employment workers. As special employment/platform workers continue to increase, there is a growing need to better protect them. Granting them the status as an employee under the union law will lay the institutional basis for them to try to defend their own rights. Although special employment workers are not employees under the Labor Standard Act, they do provide labor, and employers earn significant profits from their labor. They should be recognized as employees under the Union Act, if only for the sake of fair contractual relationship, to guarantee the three labor rights, so that they can seek relief for their rights and try to improve working conditions through collective bargaining with the contracting party. Second, aside from granting employee status under the Union Act, social insurance coverage for special employment workers should also be considered. Specifically, the currently optional coverage for Industrial Accident Insurance should be improved, to increase the overall coverage. Including them into Employment Insurance should also be made possible in a phase-by-phase manner.

Third is broadening the definition of an employer. With technological development, one-person contractor has increased and multi-tiered contracting is still widely used. Given the reality, recognizing the principal client as a co-employer would be highly meaningful in workers' representation. The principal client, because it is not recognized as an employer today, has little legal responsibility even when it wields de facto control and influence over the workers. They are not held liable even when they directly or indirectly engage in unfair labor practices. This fact is sometimes abused, with some employers frequently engaging in unfair labor practices. One way to address this is to actively seek to recognize the principal client as an employer.

Fourth is ensuring effectiveness of the Labor-Management Council. The Council is legally required in workplaces with 30 or more employees and thus often has the legal mandate to handle workers' grievances in non-unionized workplaces. The Council's agenda is structured to include reports, items for deliberation and resolution, and if administered with substance, it can be quite effective in representing workers' rights. But only 50% of the legally required workplaces have

the Council in place, and it is the most active where there are unions. To promote the Council's activities, participation should be broadened to include not only regular employees but all workers at the workplace including irregular workers. Its operation should be monitored on an ongoing basis and vigorous administrative actions should be taken for any violations.

Fifth, labor movement should accelerate self-innovation. As was demonstrated in this study, labor movement is ceaselessly evolving to better represent workers' interests. But as seen so far, workers' platform like Workplace Harassment 119 have proven itself to be quite effective, both in creating social narrative and organizing workers. And unions of different shapes are aggressively marching to the forefront to advance workers' interests, resulting in a number of organization cases. Labor movement should try to discover additional success cases or provide them with support, so that it can help to revitalize labor movement in general.